



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2147 FAX (603) 271-6588



Lee Maserian
40 Woodcrest Road
Boxford, MA 01921

Roger Guichard
33 Sanctuary Lane
Alton Bay, NH 03810

Re: Tax Map 33, Lot 79, Unit
Route 28A, Alton Bay

ADMINISTRATIVE ORDER
WD 03-22

September 17, 2003

A. INTRODUCTION

This Administrative Order is issued by the New Hampshire Department of Environmental Services, Water Division, to Lee Maserian and Roger Guichard pursuant to RSA 482-A:6. This Administrative Order is effective upon issuance.

B. PARTIES

1. The New Hampshire Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH, 03302-0095.
2. Lee Maserian is an individual having a mailing address of 40 Woodcrest Road, Boxford, MA, 01921.
3. Roger Guichard is an individual having a mailing address of 33 Sanctuary Lane, Alton Bay, NH, 03810.

C. SUMMARY OF FACTS AND LAW SUPPORTING CLAIM:

1. RSA 482-A authorizes DES to regulate construction in any waters of the state. Pursuant to RSA 482-A:11, I the Commissioner of DES has adopted Wt 100 *et seq.* to implement this program.
2. RSA 482-A:3, I states that "no person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from [DES]."

3. Construction or modification of a structure in waters of the state without a permit from DES is a violation of RSA 482-A:3, I.
4. Lee Maserian is the owner of the property located at Route 28A, Alton Bay, NH, including a pre-existing boathouse located over the bed of Alton Bay (the "Boathouse"), more specifically referenced on Alton Tax Map 33, Lot 79, Unit 1 (the "Property").
5. On June 4, 2003, the Town of Alton issued Building Permit Number 6/98 (the "Building Permit") to Lee Maserian to extend the roof of the Boathouse to cover existing decks adjacent to the Boathouse.
6. Roger Guichard is the contractor listed on the Building Permit.
7. On June 9, 2003, DES received a complaint that the Boathouse walls and roof were being expanded without a permit from DES.
8. A review of the Wetlands Bureau database indicates that no wetlands permit has been issued for an expansion of the Boathouse.
9. On June 9, 2003, DES personnel inspected the Boathouse and observed the following:
 - a. The dimensions of the enclosed portion of the pre-existing Boathouse were 35 ft 3 inches long x 14 ft 3 inches wide. The walkways on the pre-existing Boathouse measured 6 ft x 40 ft (measured from normal high water) along the southerly side, and 7 ft x 40 ft (measured from normal high water) along the northerly side. Neither of these walkways was covered by a roof on the pre-existing Boathouse.
 - b. The Boathouse roof was extended 7 feet to cover a 7 ft x 40 ft concrete and wood plank walkway located along the north edge of the Boathouse.
 - c. New walls were framed 6 feet 9 inches outward from the pre-existing west Boathouse wall and 6 feet outward from the pre-existing south Boathouse wall. The new roof covered the north portion of the framed walls at the west end of the Boathouse. The new walls resulted in a 364 square foot expansion of the enclosed portion of the Boathouse.

D. DETERMINATION OF VIOLATION

1. Lee Maserian and Roger Guichard have violated RSA 482-A:3, I, by modifying and expanding a boathouse located over the bed of surface waters of the state without a permit from DES.

E. ORDER

Based on the above findings, DES hereby orders Lee Maserian and Roger Guichard as follows:

1. **Immediately cease and desist** all construction activities on the Boathouse except those specifically authorized by this Order.
2. **Within 30 days** of the date of this Order, submit a restoration plan to DES for review and approval. The restoration plan shall include a construction sequence that details the time frame for completion of the restoration, and the measures proposed to contain debris and construction materials during the restoration.
3. Within 30 days of the date of written restoration plan approval from DES, restore the Boathouse to preconstruction conditions. The Boathouse dimensions shall not exceed 35 feet 3 inches long x 14 feet 3 inches wide and the attached walkways shall not exceed 6 feet wide x 40 ft long (measured from normal high water) on the southerly side, or 7 feet wide x 40 ft long (measured from normal high water) on the northerly side. The original roofline shall be restored and the distance between eaves shall not exceed 15 feet. Neither deck shall be covered. There shall be no change in the location, configuration, or construction type from that of the pre-existing Boathouse without the written approval of DES.
4. Within 5 days of completion of the restoration submit photographs and written documentation of compliance to DES.

Please reference the file number 2003-1143 on all correspondence and submit any materials in connection with this Administrative Order, **other than appeals**, to DES as follows:

Mary Ann Tilton
DES Wetlands Bureau
Compliance Supervisor
6 Hazen Drive - P.O. Box 95
Concord, NH 03302-0095

F. APPEAL

Any party aggrieved by this Order may apply for reconsideration with respect to any matter determined in this action within 20 days from the date of the Order. A motion for rehearing must describe in detail each ground for the request. DES may grant a rehearing if in its opinion, good reason is provided in the motion. Filing an appeal or motion for reconsideration of the Order will not automatically relieve you of your obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 482-A provides for administrative fines, civil penalties, and criminal penalties for the violation noted in this Order, as well as for failing to comply with the Order itself. Lee Maserian and Roger Guichard remain obligated to comply with all applicable requirements. DES will continue to monitor the Property for compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Belknap County Registry of Deeds so as to run with the land.


COPY
Harry T. Stewart, P.E., Director
Water Division



Certified Mail/RRR: 7099 3400 0003 0688 1112

cc: Mark Harbaugh, DES Legal Unit ✓
Rene Pelletier, DES Land Resources Management Program
Public Information Officer, DES PIP Office
Mary Ann Tilton, DES Wetlands Bureau
Darlene Forst, DES Shoreland Program
Belknap County Registry of Deeds
Alton Conservation Commission
Alton Code Enforcement Officer